

PROPOSED HIGHGATE CONTROLLED PARKING ZONE COMMENTS ON LETTER FROM BINDMANS SOLICITORS

The attached letter was sent to the Council by Bindman and Partners, Solicitors acting for the "Highgate No CPZ Campaign". There are a number of detailed facts to be checked and the Legal Service will then draft the full response. In the advance of a draft reply, the following points are set out for Member's information and consideration in answer to the main allegations made by the Bindman letter

The letter alleges errors and inaccuracies in the Director's report to The Executive meeting on 16/09/03.

1. At paragraph 8.5

- (i) Allegation – That the percentages in favour and against the CPZ for Cromwell Avenue were reversed in the table.

Answer – This is admitted. The percentages for Cromwell Avenue should have been 48% in favour and 52% against. However the absolute figures given of 35 in favour and 37 not in favour were shown alongside the percentages. Members were not therefore given a false summary.

- (ii) Allegation – Highgate Hill (which includes The Bank) was recommended for inclusion in the CPZ on the basis that there was less than 10% difference between those in favour and those against i.e. 42% in favour and 58% against. The results of the vote in The Bank were omitted from the table.

Answer – The responses from The Bank were not included in the Highgate Hill figures. The Bank figures were set out in Appendix III to the report and showed that only one vote was received from the Bank and this was against the CPZ. The Bank was included in the proposed scheme for statutory consultation on the same basis as Highgate High Street i.e. due to its geographical location.

- (iii) Allegation – The margin of difference between the percentages in favour and against halved the actual differences.

Answer – The margin of difference between the yes and no views has been calculated from 50%. Although this could have been made clearer in the report, the actual votes and the percentages in favour and against were set out in the report and there was no intention to mislead the Executive.

2. At paragraph 9.5

- (i) Allegation – The "over 50" letters received from Cromwell Avenue, Cromwell Place, Winchester Road and Winchester Place should have been available for public scrutiny.

Answer – The “letters” were two pro-forma letters addressed to Cllr Dodds received in mid-July, mainly by supporters of the proposed scheme. These pro-forma letters were not responses to consultation questionnaires. All consultation questionnaires warn respondents that their names, addresses and views can be made public. However before publication of the report to the Executive, for data protection reasons, it was felt that such letters could not be publicly disclosed. Now that the letters have been referred to in the public report, officers are making the letters available in anonymised form. .

- (ii) Allegation – Cllr Williams has said that there were just 50 letters not more.

Answer – There were 53 letters .

- (iii) Allegation – Cllr Williams has said that 5 of the 50 were against a CPZ

Answer – 5 were against the CPZ. Two of these were from Archway Road; one from Shepherds Hill and 2 from Cromwell Avenue.

- (iv) Allegation – Cllr Williams has said that 17 of these letters duplicated consultation voting forms and should not have been counted again

Answer – The letters were not included in the tabulated consultation results but were referred to independently in the report. The intention here was not to accurately reflect numbers, but to indicate that the level of lobbying of the Executive member signalled a level of support that would justify proceeding to statutory consultation.

- (v) Allegation – Cllr Williams has said that many of the letters were undated and may have been received after the deadline for consultation

Answer – A closing date was given for the replies to the questionnaires. As stated above it was acknowledged that the above correspondence was received after the closing date. This was partly because people in the area were continuing to receive material delivered by the Highgate CPZ No campaign and were wanting to counter their views.

- (vi) Allegation – Cllr Williams has said that at least 4 letters were in the same handwriting and from the same address

Answer – There were four pro-formas received from one address in Cromwell Avenue but with four different signatures.

- (vii) Allegation – Cllr Williams has said that a substantial minority were “form letters” and should be treated with some caution

Answer – Most of the correspondence was form letters but these were clearly individualised and indicated clearly that they were either in favour or against the CPZ. Pro-formas are routinely used as part of consultation and there is no real reason why they should be treated with caution. However, as stated above, this correspondence with the Executive Member was taken as

indicative of further support from the proposed area for statutory consultation and not included in the figures.

3. Allegation – The summaries of consultation should have been fair and balanced and they were not in this report.

Answer – The summary of consultation was clearly set out in the report and the minor inaccuracies were not intended to mislead. A revised report has been prepared for the Special Executive meeting on 14th October. This report recommends further consultation with the proposed zone as part of the statutory consultation and that, before the final decision is made the results of the consultation now proposed will be fairly and accurately reported to Executive Members.

4. Allegation – The decisions on consultation should be re-visited by full Council.

Answer – This was one of the options open to the Overview & Scrutiny Committee on 07/10/03. It would only have been appropriate if the decisions had been contrary to the Council's Policy or Budget framework which was not the case. It would be entirely proper for The Executive to take the decision tonight on consultation and, in due course, the final decision whether to proceed with the CPZ.

5. Allegation – The Director of Environmental Services should not be deciding whether any objection is valid (this arises from the Recommendation at paragraph 2.1.3.).

Answer – Any written objection on traffic parking or amenity grounds received before the advertised deadline would be valid, so there is little discretion to exercise. Since some objections are a virtual certainty, the whole final decision is being recommended for determination to a future meeting of The Executive collectively.

6. Allegation – The delegation of the final decision on the scheme to the individual Executive Member Environment is improper because of constitutional concerns and because Cllr Dodds has already made up his mind in advance of the statutory consultation (this arises from the Recommendation at paragraph 2.1.4.).

Answer- The final decision is now being referred to The Executive.

7. Allegation – At the meeting of The Executive on 16/09/03 Councillors Dodds and Makanji made public statements to the effect that the Council would take much more notice of the views of those directly affected by the CPZ than those in the adjacent streets outside the zone. This would be contrary to legal requirements in section 45(3) of the Road Traffic Regulation Act 1984. Copies of officers' notes of the Executive meeting are requested by Bindmans since the official Minutes do not record the alleged public statements.

Answer – It has to be agreed would not be a proper exercise of the relevant statutory powers to approach the final decision with the stated policy that the views of those within the CPZ counted for more than the views of those just outside. However, it will not be conceded that any remarks by Executive Members had the effect alleged nor would it be accepted that notes taken by officers (if any) provided a more accurate account of the meeting than the official Minutes.

8. Allegation – that households in Hornsey Lane would be denied residents' parking permits and would have no reasonable alternative parking.

Answer- It is not common practice to issue residents outside the area directly affected by a CPZ with parking permits for within the zone. However, officers would view each individual application from Hornsey Lane on its merits to prevent unusual hardship.

9. Allegation – that the notice of proposals will not be published in the Hampstead and Highgate Express.

Answer – The notice will be published in the Hampstead and Highgate Express, the Hornsey and Tottenham Journal and elsewhere as required by the Regulations. It is a legal requirement that the Notice be published in the London Gazette.

John Suddaby, Acting Head of Legal Services.

14/10/03.